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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,400	11/30/2001	Richard S. Ginn	267/121	4276
57360	7590	05/24/2006		
WORKMAN NYDEGGER 1000 EAGLE GATE TOWER, 60 EAST SOUTH TEMPLE SALT LAKE CITY, UT 84111			EXAMINER DAWSON, GLENN K	
			ART UNIT	PAPER NUMBER
			3731	

DATE MAILED: 05/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/006,400

Applicant(s)

GINN, RICHARD S.

Examiner

Glenn K. Dawson

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-16, 21-32, 38-42, 46-51, 54-56 and 60-76 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11, 12, 14-16, 63 and 65-67 is/are allowed.
- 6) ☒ Claim(s) 21, 23, 24, 27, 28, 31, 32, 38-42, 46, 68, 69, 72 and 74-76 is/are rejected.
- 7) ☒ Claim(s) 13, 22, 25, 26, 29, 30, 47-51, 54-56, 60-62, 64, 70, 71 and 73 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Specification

The disclosure is objected to because of the following informalities: the specification contains citations of pending patent applications; however, the status of these applications has not been updated.

Appropriate correction is required.

Double Patenting

Claims 46 and 76 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 38 and 74, respectively. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Objections

Claims 29,30 and 50 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim must refer to claims I the alternative. These claims refer back to two different claims. See MPEP § 608.01(n). Accordingly, these claims have not been further treated on the merits.

Further Claim Objections

Claims 13,31,38,40,47,64,68,72 and 74 are objected to because of the following informalities:

In claims 13 and 64, "port" should be --portion--.

In claims 38,40,68 and 74, "closure device" should be --closure element--.

In claim 47 line 10, "contracts" should be --contacts--.

In claim 69 line 3, "opening" should be --passage--.

In claims 31 and 72, there is no antecedent basis for "the procedure"; it is believed that the dependency of these claims may be in error.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21,23,24,27,28,31,32,38-42,46,68,69,72 and 74-76 are rejected under 35 U.S.C. 102(b) as being anticipated by Epstein, et al.-WO 00/06029.

Epstein discloses a device having an elongated member 24, a locator member 32 formed of a helically wound wire, a control element 41, housing 111 and an actuator (enlarged portion at proximal end of housing 111) and a closure element (sealant in syringe 82-87). As disclosed on page 11 lines 5-18, catheters are placed through a sheath which form a puncture in the vessel which is sealed with the sealant.

Allowable Subject Matter

Claims 11,12,14-16,63and 65-67 are allowed.

Claims 22,25,26,47-49,51,54-56,60-62,64,70,71 and 73 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Allowable Subject Matter


Claims previously indicated as being allowable have been rejected herein. The previous indication of allowability is regretted. Therefore, the finality of the previous office action has been vacated and withdrawn. This action is Non-Final

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn K. Dawson whose telephone number is 571-272-4694. The examiner can normally be reached on M-Th 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Glenn K Dawson
Primary Examiner
Art Unit 3731

Gkd
16 May 2006

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